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09/276,207	03/25/1999	WILLIAM CARTER CARROLL BULLARD	10360/009001	1809

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EXAMINER

AKERS, GEOFFREY R

ART UNIT	PAPER NUMBER
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2164

DATE MAILED: 03/26/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/276207

Applicant(s)

Bullard

Examiner

Aker, G

Group Art Unit

2/64

--The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address--

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 3/21/02
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-20 is/are pending in the application.  
Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-20 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Applicant Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
  - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

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## **DETAILED ACTION**

### ***Response to Amendment***

1. This action is responsive to applicant's Amendment C(Paper #13) filed 3/21/02.
2. Applicant amended claims 1, 11-13, 19-20. No claims were cancelled. None were added.
3. Claims 1-20 are pending.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3, and 11-14 are rejected under 35 USC 103(a) as unpatentable over Egendorf(US Pat. No: 5,794,221).
- 6.(AMENDED) As per claim 1 Egendorf teaches a computer implemented method(col 4 lines 40-56) comprising providing a computer network subscriber with a service having a first (customer) characteristic, observing at the network(col 1 lines 4-6)(col 1 line 54-col 2 line 8), that the provided service to the computer network subscriber has a second characteristic of vendor(col 2 lines 11-27) and billing the computer network subscriber for the service having the second characteristic of the vendor rather than for the service having the first characteristic(col 2 line 11-19)(col 2 lines 28-36)(col 4 line 56-col 5 line 10)(col 6 lines 36-46) and billing the subscriber for the secure, cost effective secure(col 2 lines 42-50)networking transmission service having the

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second characteristic with the vendor rather than the service having the first characteristic(Fig 2/16)(col 4 line 57-col 5 line 10).Egendorf teaches network security maintaining consequent quality of service for the customer(col 2 lines 42-50).It would have been obvious to one skilled in the art at the time of the invention that the provision of high security in a computer network requires high quality of service. The motivation for this is to maintain no loss in transmitted/received digital signals(packets) to maintain communications security as taught by Egendorf.

7. As per claim 2, Egendorf teaches the method of claim 1 wherein observing further comprises determining at the network that resources are not available for providing the first level of service(col 2 line 12) and, in response to said determination, providing a second level of secure networking transmission service(col 5 lines 43-60)(col 2 lines 11-50).

8. As per claim 3, Egendorf teaches the method of claim 2 wherein providing the second level(col 2 lines 11-27) of service further comprises reassessing and redefining the deployed networking transmission service(Fig 1)(Fig 3)(col 5 lines 50-55)(col 7 lines 1-10).

9.(AMENDED) As per claim 11 Egendorf teaches a computer implemented method(col 4 lines 40-56) comprising providing a computer network subscriber with a networking policy having a first level of service(col 1 lines 4-6)(col 1 line 54-col 2 line 8) and collecting data from the network using an accounting process that collects different kinds of metrics from the network, correlates the metrics to specified network flows, and relates the collected and correlated metrics back to the policy that was defined with the first level of service and billing the computer network

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subscriber for the networking policy having a second level of service(col 2 lines 11-27)(col 2 lines 28-36)(col 4 line 56-col 5 line 10)(col 6 lines 36-46) rather than the policy having the first level of service. Egendorf teaches network security maintaining consequent quality of service for the customer(col 2 lines 42-50).It would have been obvious to one skilled in the art at the time of the invention that the provision of high security in a computer network requires high quality of service. The motivation for this is to maintain no loss in transmitted/received digital signals(packets) to maintain communications security as taught by Egendorf.

10. (AMENDED) As per claim 12 Egendorf teaches the method of claim 11 further comprising providing an indication whether or not the policy with the first level of service is being satisfied(col 2 line 12).Egendorf teaches network security maintaining consequent quality of service for the customer(col 2 lines 42-50).It would have been obvious to one skilled in the art at the time of the invention that the provision of high security in a computer network requires high quality of service. The motivation for this is to maintain no loss in transmitted/received digital signals(packets) to maintain communications security as taught by Egendorf.

11.(AMENDED) As per claim 13 Egendorf teaches the method of claim 11 comprising determining at the network that resources are not available for providing the transmission service at the first level of service and in response to this, providing a second level of networking service(col 5 lines 43-60)(col 2 lines 11-50).Egendorf teaches network security maintaining consequent quality of service for the customer(col 2 lines 42-50).It would have been obvious to one skilled in the art at the time of the invention that the provision of high security in a computer

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network requires high quality of service. The motivation for this is to maintain no loss in transmitted/received digital signals(packets) to maintain communications security as taught by Egendorf.

12. As per claim 14 Egendorf teaches the method of claim 13 wherein providing the second level(col 2 lines 11-27) of networking transmission service further comprises reassessing and redefining the deployed networking service(Fig 1)(Fig 3)(col 5 lines 50-55)(col 7 lines 1-10).Egendorf teaches network security maintaining consequent quality of service for the customer(col 2 lines 42-50).It would have been obvious to one skilled in the art at the time of the invention that the provision of high security in a computer network requires high quality of service. The motivation for this is to maintain no loss in transmitted/received digital signals(packets) to maintain communications security as taught by Egendorf.

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13. Claims 4-5 and 15-16 are rejected under 35 USC 103(a) as unpatentable over Egendorf(US Pat. No: 5,794,221) and further in view of Hilt(US Pat. No: 5,465,206).

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14. As per claim 4, Hilt teaches the method of claim 3 wherein the process observes whether reassessment and redefining of the deployed networking transmission policy was successful(col 13 line 67-col 14 line 31)(col 15 lines 2-55)(col 22 lines 2-17)(Fig 12/158/124). It would have been obvious to one skilled in the art at the time of the invention to combine Egendorf in view of Hilt

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to teach the above. The motivation is to teach a method for improved payment of bills over a network as enunciated by Hilt(col 10 lines 30-31).

15. As per claim 5, Hilt teaches the method of claim 1 further comprising determining whether there has been packet loss(col 16 line 57-col 17 line 13) and wherein determining packet loss includes deploying a packet detector monitor in the network to generate network accounting records that can be used to determine packet loss(Fig 6/160). It would have been obvious to one skilled in the art at the time of the invention to combine Egendorf in view of Hilt to teach the above. The motivation is to teach a method for improved payment of bills over a network as enunciated by Hilt(col 10 lines 30-31).

16. As per claim 15, Hilt teaches the method of claim 14 wherein the process observes whether reassessment and redefining of the deployed networking transmission policy was successful(col 13 line 67-col 14 line 31)(col 15 lines 2-55)(col 22 lines 2-17)(Fig 12/158/124). It would have been obvious to one skilled in the art at the time of the invention to combine Egendorf in view of Hilt to teach the above. The motivation is to teach a network for aggregating data for subsequent use.

17. As per claim 16, Hilt teaches the method of claim 11 further comprising determining whether there has been packet loss(col 16 line 57-col 17 line 13) and wherein determining packet loss includes deploying a packet detector monitor in the network to generate network accounting records that can be used to determine packet loss(Fig 6/160). It would have been obvious to one skilled in the art at the time of the invention to combine Egendorf in view of Hilt to teach the

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above. The motivation is to teach a method for improved payment of bills over a network as enunciated by Hilt(col 10 lines 30-31).

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18. Claims 6-10 and 17-20 are rejected under 35 USC 103(a) as unpatentable over Egendorf(US Pat. No: 5,794,221) and further in view of Melen(US Pat. No: 5,956,391).

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19. As per claim 6, Melen teaches the method of claim 1 wherein the providing further comprises establishing a differentiate services policy that is decomposed into a collection of configurations and deployed in a network(col 6 line 26-col 7 line 8).It would have been obvious to one skilled in the art at the time of the invention to combine Egendorf in view of Melen to teach the above. The motivation to combine is to teach a method of billing on the Internet for Internet based transactions as enunciated by Melen(col 3 lines 63-col 4 line 10) assuring accuracy.

20. As per claim 7, Melen teaches the method of claim 1 wherein the providing further comprises deploying the configurations to a collection of routers(Fig 1/6/10) or switches(Fig 1/4) that the customer would have access to in the network(Fig 1/1/2). It would have been obvious to one skilled in the art at the time of the invention to combine Egendorf in view of Melen to teach the above. The motivation to combine is to teach a method of billing on the Internet for Internet based transactions as enunciated by Melen(col 3 lines 63-col 4 line 10) assuring asccuracy utilizing a network for aggregating quality data for subsequent use from a plurality of routers.



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21. As per claim 8, Melen teaches the method of claim 1 wherein observing observes a large number of network flows(Fig 2)(Fig 3).It would have been obvious to one skilled in the art at the time of the invention to combine Egendorf in view of Melen to teach the above. The motivation to combine is to teach a method of billing on the Internet for Internet based transactions as enunciated by Melen(col 3 lines 63-col 4 line 10) assuring accuracy.

22. As per claim 9, Melen teaches the method of claim 8 wherein observing further comprises using an accounting process that produces information at a granularity level at which the policies are actually deployed(Fig 3)(col 9 lines 33-49). It would have been obvious to one skilled in the art at the time of the invention to combine Egendorf in view of Melen to teach the above. The motivation to combine is to teach a method of billing on the Internet for Internet based transactions as enunciated by Melen(col 3 lines 63-col 4 line 10) assuring accuracy and to teach an accounting provess from which to develop policy on information use.

23. As per claim 10, Melen teaches the method of claim 9 wherein the policies are deployed at source and destination IP address, protocol and/or destination port level(col 4 line 53-col 5 line 35).It would have been obvious to one skilled in the art at the time of the invention to combine Egendorf in view of Melen to teach the above. The motivation to combine is to teach a method of billing on the Internet for Internet based transactions as enunciated by Melen(col 3 lines 63-col 4 line 10) assuring accuracy and to teach a network for establishing data policies at source and destination levels in the throughput process.

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24. As per claim 17, Melen teaches the method of claim 11 wherein the providing further comprises establishing a differentiate services policy that is decomposed into a collection of configurations and deployed in a network(col 6 line 26-col 7 line 8). It would have been obvious to one skilled in the art at the time of the invention to combine Egendorf in view of Melen to teach the above. The motivation to combine is to teach a method of billing on the Internet for Internet based transactions as enunciated by Melen(col 3 lines 63-col 4 line 10) assuring accuracy.

25. As per claim 18, Melen teaches the method of claim 11 wherein the providing further comprises deploying the configurations to a collection of routers(Fig 1/6/10) or switches(Fig 1/4) that the customer would have access to in the network(Fig 1/1/2). It would have been obvious to one skilled in the art at the time of the invention to combine Egendorf in view of Melen to teach the above. The motivation to combine is to teach a method of billing on the Internet for Internet based transactions as enunciated by Melen(col 3 lines 63-col 4 line 10) assuring accuracy and to teach a network for aggregating quality data for subsequent use from a plurality of routers.

26.(AMENDED) As per claim 19, Melen teaches the method of claim 11 wherein observing further comprises using an accounting process that produces information at a granularity level at which the policies are actually deployed(Fig 3)(col 9 lines 33-49). It would have been obvious to one skilled in the art at the time of the invention to combine Egendorf in view of Melen to teach the above. The motivation to combine is to teach a method of billing on the Internet for Internet based transactions as enunciated by Melen(col 3 lines 63-col 4 line 10) assuring accuracy and to teach an accounting process from which to develop policy on information use.

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27. (AMENDED)As per claim 20, Melen teaches the method of claim 19 wherein the policies are deployed at source and destination IP address, protocol and/or destination port level(col 4 line 53-col 5 line 35).It would have been obvious to one skilled in the art at the time of the invention to combine Egendorf in view of Melen to teach the above. The motivation to combine is to teach a method of billing on the Internet for Internet based transactions as enunciated by Melen(col 3 lines 63-col 4 line 10) assuring accuracy and to teach a network for establishing data policies at source and destination levels in the throughput process.

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*Response to Arguments*

28. Applicant's arguments filed 3/21/02 have been fully considered but they are not persuasive. Egendorf's internet billing method is convenient for both the vendor and customer(col 1 lines 1-3) relating to the quality of service conducted on the Internet. Moreover, Egendorf's invention provides network security(and consequent quality)service for the customer(col 2 lines 42-50). To maintain high communications security, there must be no signal degradatioon or loss. Minimized packet loss(signal degradation) is inherent in such high security computer communications.

As stated in Egendorf it is not necessary (col 2 lines 28-50) to be tri-party as Applicant suggests. The financial transactions addressed by Egendorf are secure and require a high quality of service. Furthermore, Hilt teaches also secure billing for clients on a network. Hilt also requires a hig degree of service, and if that were not maintained, the transactions would not be employed.

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Again, Melen teaches billing on the Internet for secure transactions of a financial nature. High security is requisite for the system of Melen to be employed and minimal loss for high security is inherent. All references are in the same field as they require high quality of service in communications for network subscribers in the billing systems and financial transaction systems employed. The references are properly combinable for motivations supplied by the secondary references as cited herein.

In the references the provider is able to monitor the data being sent over the Internet through the provider's equipment to enable it to be aware that customer has authorized a transaction(col 4 lines 11-22). This further increases the quality of service through improved accuracy in the transactions promoted by this monitoring procedure. Furthermore, the billing account need not even be with the provider but at a third party, which moreover minimizes error by the provider(col 6 lines 37-46) and enhances service in multiple accounts(col 6 lines 52-57). Additionally, the vendor account can be an account with the provider or with a third party too, increasing accuracy by independent verification procedures(col 7 lines 1-4).

### *Conclusion*

29. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any questions regarding this communication may be directed to the examiner, Dr. Geoffrey Akers, P.E. who can be telephoned at (703)-306-5844 between the hours of 6:30 AM and 5:00 PM Monday through Friday. If attempts to contact the examiner are unsuccessful, the examiner's supervisor, Mr. Vincent Millin, SPE may be contacted at (703)-308-1065.

GRA

March 23, 2002

  
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